

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Case No. 2:12-cr-00004-MMD-GWF

Plaintiff,

ORDER

v.

ALEXANDER KOSTYUKOV,

Defendant.

United States Magistrate Judge George Foley, Jr. denied Defendant Alexander Kostyukov's Motion to Dismiss Counsel ("Motion") (dkt. no. 231) following a hearing held on October 18, 2012. Defendant filed a notice of appeal of that decision with the Ninth Circuit Court of Appeals. (Dkt. no. 239.) The Ninth Circuit dismissed the appeal for lack of jurisdiction. (Dkt. no. 246.) Defendant's notice of appeal was then brought to the Court's attention.¹ (Dkt. no. 259.) The Court affirms the Magistrate Judge's decision.

Local Rule IB 1-9 vests a magistrate judge with authority to appoint counsel. Accordingly, the Court will review the Magistrate Judge's decision to deny Defendant's Motion seeking to dismiss counsel under a "clearly erroneous or contrary to law" standard. 28 U.S.C. § 636(b)(1)(A); L.R. IB 3-1(a). "A finding is clearly erroneous when although there is evidence to support it, the reviewing body on the entire evidence is left

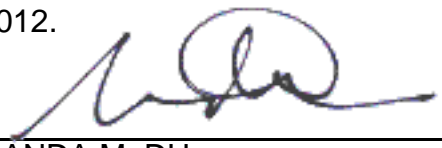
¹Local Rule IB 3-1 prescribes the procedures for a party who wishes to object to the ruling of a magistrate judge. While Defendant did not follow these procedures, the Court will nevertheless construe Defendant's notice of appeal as an objection.

1 with the definite and firm conviction that a mistake has been committed.” *United States*
2 *v. Ressam*, 593 F.3d 1095, 1118 (9th Cir. 2010) (quotation omitted).

3 The Court has reviewed Defendant’s Motion and the transcript of the hearing
4 before the Magistrate Judge on Defendant’s Motion. Counsel for Defendant made
5 representations to the court about the complex electronic discovery which does not lend
6 for easy sharing of information with Defendant, who is detained pending trial, and his
7 efforts to communicate with Defendant. Counsel also represented that he holds no
8 biases or prejudices against Defendant. The Magistrate Judge accepted counsel’s
9 representation as an officer of the court. The Court determines that the Magistrate
10 Judge’s decision is not clearly erroneous or contrary to law. The Court further finds that
11 even if the standard of review is de novo, good cause exists to affirm the Magistrate
12 Judge’s decision.

13 IT IS THEREFORE ORDERED that Defendant’s objection to the Magistrate
14 Judge’s order denying Defendant’s Motion to Dismiss is DENIED. The Court affirms the
15 Magistrate Judge’s order denying Defendant’s Motion.

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17 DATED THIS 14th day of December 2012.

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20 MIRANDA M. DU
21 UNITED STATES DISTRICT JUDGE
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